



DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2023-0008]

Modifications to the Bid Adequacy Procedures for Offshore Oil and Gas Lease Sales

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notification of procedural changes; request for comments

SUMMARY: The Bureau of Ocean Energy Management (BOEM) announces and invites comments on its intention to change its bid adequacy procedures (BAPs), which ensure the United States receives fair market value (FMV) from Outer Continental Shelf (OCS) oil and gas lease sales. BOEM proposes to discontinue the use of both tract classification and delayed valuation methodology. Instead, BOEM proposes to use a statistical lower bound confidence interval (LBCI), at the 90 percent confidence level, as a measure of bid adequacy. BOEM is also proposing other, minor adjustments to its BAPs to clarify and streamline its processes.

DATES: BOEM must receive your comments by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments by either of the following methods:

- Regulations.gov web portal: Navigate to [http:// www.regulations.gov](http://www.regulations.gov) and under the “Search” tab, in the space provided, type in Docket ID: BOEM-2023-0008. Select the document that you would like to comment on and click on the “Comment” button to submit your comments. You may also view other comments already posted to the docket.
- In written form by mail or other delivery services: Send comments in an envelope labeled “Comments for the proposed revised BAP” and addressed to Mr. Matt Frye, Chief, Resource Evaluation Division, Office of Strategic Resources, Bureau

of Ocean Energy Management, 45600 Woodland Road, Sterling, VA 20166–9216.

- For additional information on sending comments, see the “Public Participation and Availability of Comments” heading under the **SUPPLEMENTARY INFORMATION** section of this notice.

The proposed, revised procedures are available for review at: <https://www.boem.gov/oil-gas-energy/energy-economics/lease-sales-and-fair-market-value>. A copy of BOEM’s current BAP entitled “Summary of Procedures for Determining Bid Adequacy at Offshore Oil and Gas Lease Sales, Effective March 2016 with Central Gulf of Mexico Sale 241 and Eastern Gulf of Mexico Sale 226” is available on BOEM’s website at: <https://www.boem.gov/sites/default/files/oil-and-gas-energy-program/Energy-Economics/Fair-Market-Value/Summary-of-Procedures-For-Determining-Bid-Adequacy.pdf>.

FOR FURTHER INFORMATION CONTACT: Mr. Matt Frye, Chief, Resource Evaluation Division, Office of Strategic Resources, at (703) 787-1514 or email at matt.frye@boem.gov.

SUPPLEMENTARY INFORMATION:

Background and Summary of Changes

In administering the offshore oil and gas leasing program under the OCS Lands Act, the Secretary of the Interior is required to ensure that the Federal Government receives FMV for the lease rights granted and the rights conveyed. To carry out this responsibility since 1983, BOEM (and its predecessor agency) has used a two-phase, post-sale bid evaluation process to assess the adequacy of bids received in Federal offshore oil and gas lease sales. Under its BAP, BOEM reviews all high bids and evaluates all tracts to ensure that FMV is received for each OCS lease issued. The BAP relies on both evidence of market competition and in-house estimates of tract value.

Currently, in phase 1 of the BAP, BOEM reviews all bids for legal sufficiency and anomalies to establish the set of bids to be evaluated for each tract. All tracts receiving legal bids are then classified¹ as “drainage or development” (DD), “confirmed or wildcat” (CW), or “unknown” if undetermined at this phase. All CW tracts are tested for geologic and economic viability and high bids are accepted for tracts that BOEM determines to be nonviable. A nonviable tract is considered by BOEM not to have the potential capability of being explored, developed, and produced profitably under economic conditions present at the time of the lease sale. The remaining CW tracts are then reviewed under phase 2. All DD and unknown tracts begin at phase 2.

In phase 2 of the BAP, BOEM may use its probabilistic discounted cash flow simulation model to generate up to four measures of bid adequacy to help determine if a tract’s high bid may be accepted. These four measures are: mean range of values (MROV), delayed mean Range of values (DMROV), adjusted delayed values (ADV), and revised arithmetic measure (RAM). The MROV is a single value that represents the maximum cash payment that a bidder can offer for acquiring the tract’s drilling and development property rights and still expect to make a normal rate of return on their investment. The DMROV is intended to allow a determination of whether, in cases where the high bid is below the MROV, leasing revenues consisting of the cash bonus plus royalties or profit shares would be greater if the high bid were to be accepted, rather than rejected and the tract reoffered in the next available sale. BOEM calculates the tract’s MROV and DMROV and designates the lesser of these two measures as the ADV. The RAM represents the average of the highest qualified bid, all other qualified bids that are at least 25 percent of the highest qualified bid, and the MROV. If the high bid is equal to

¹ For definitions of BOEM tract classification, please refer to current bid adequacy procedures published on BOEM website: <https://www.boem.gov/sites/default/files/oil-and-gas-energy-program/Energy-Economics/Fair-Market-Value/Summary-of-Procedures-For-Determining-Bid-Adequacy.pdf>

or greater than any of these measures, the Regional Director may accept the highest qualified bid as representative of FMV for the tract.

In October 2019, the Government Accountability Office (GAO) published a report entitled “Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources” (GAO-19-531). In its report, GAO provided four recommendations to BOEM, including a recommendation to have a third party “examine the extent to which the bureau's use of delayed valuations assures the receipt of fair market value, and make changes - such as terminating the use of delayed valuations or amending its model's assumptions - as appropriate.” In response, BOEM committed to examine its use of delayed valuation and to identify any appropriate changes.

After a 2-year comprehensive technical review of the delayed valuation methodology, BOEM intends to replace the delayed valuation methodology with a statistical lower bound confidence interval (LBCI) at a 90 percent confidence level as a decision criterion for accepting or rejecting qualified high bids on tracts offered in OCS oil and gas lease sales. Following extensive testing of the alternative approaches using both historical and current lease sale tract data and existing BOEM cash flow simulation models, BOEM determined that the LBCI approach would be the most appropriate substitute for the delayed valuation methodology. The LBCI is a statistical concept that captures the lower bound of a range of values encompassing the true unknown mean of the risked present worth² of the resources at the time of the lease sale. The LBCI incorporates the uncertainty of parameters unique to the valuation of each OCS oil and gas lease sale tract. These parameters may include, but are not limited to, subsurface characterization of reservoir properties, cost and timing of the development, and projected revenues. Unlike the delayed valuation methodology, the LBCI approach would

² Risked present worth is a net present value of the potential oil and gas resources contained in a tract adjusted for the geological risks of not finding hydrocarbons and the uncertainties associated with the development and economic parameters of that tract at the time of the lease sale.

not require that BOEM estimate the time delay period between the current OCS oil and gas lease sale and the projected next lease sale. As such, BOEM finds the LBCI to be a better approach going forward.

Additionally, BOEM proposes to discontinue the use of tract classification in the BAP to streamline the bid review process. BOEM has found that this classification process has had minimal impact on its procedural analysis of FMV; since 1997, only approximately 1 percent of tracts have been classified as DD, and the remaining tracts have been classified as CW. The classification process has therefore been of limited utility to BOEM in the existing BAP. Therefore, in the proposed revised BAP, the formal tract classification process would be removed and all tracts receiving legal bids in phase 1 would be passed on to phase 2 unless the tract is determined to be nonviable. In phase 2, BOEM may use its probabilistic discounted cash flow simulation model to generate up to two measures of bid adequacy: LBCI and RAM. A tract's highest qualified bid would then be compared to the applicable measures of bid adequacy. If that bid is equal to or greater than either of these measures, the Regional Director may accept the highest qualified bid as representative of FMV for the tract.

BOEM is also proposing other minor revisions to its procedures, for example, the removal of the "Definitions" section to streamline the document and ensure clarity.

BOEM intends to assess bids using the revised BAP, once finalized, during lease sales included in the next National OCS Oil and Gas Leasing Program.

Public Participation and Availability of Comments

All comments will be made publicly available in the docket. BOEM will consider all comments before finalizing the revised BAP

All interested parties can submit written comments to BOEM. BOEM will protect privileged or proprietary information that you submit in accordance with the Freedom of Information Act (FOIA) and OCS Lands Act. To avoid inadvertent release of such

information, interested parties should mark all documents and every page containing such information with “Confidential - Contains Proprietary Information.” To the extent a document contains a mix of proprietary and nonproprietary information, interested parties should clearly mark the portions of the document that are proprietary and those that are not. Exemption 4 of FOIA applies to trade secrets and commercial or financial information that you submit that is privileged or confidential.

Please be aware that BOEM’s practice is to make all other comments, including the names and addresses of individuals, available for public inspection. Before including your address, phone number, email address, or other personal identifying information in your comment, please be advised that your entire comment, including your personal identifying information, may be made publicly available at any time. In order for BOEM to consider withholding from disclosure your personal identifying information, you must identify, in a cover letter, any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the disclosure, such as embarrassment, injury, or other harm.

Even if BOEM withholds your information in the context of its BAP modification process, your submission is subject to FOIA, and if your submission is requested under FOIA, your information will be withheld only if a determination is made that one of FOIA’s exemptions to disclosure applies. Such a determination will be made in accordance with the Department’s FOIA regulations and applicable law.

BOEM will make available for public inspection, in their entirety, all comments submitted by organizations and businesses, or by individuals identifying themselves as representatives of organizations or businesses.

AUTHORITY: 43 U.S.C. 1331 *et seq.* (Outer Continental Shelf Lands Act, as amended) and 30 CFR part 556.

Amanda Lefton,
Director,
Bureau of Ocean Energy Management.
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